

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

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UNITED STATES OF AMERICA

v.

JOHNATHON IRISH

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13-cr-142-01-PB

March 27, 2014

11:15 a.m.

TRANSCRIPT OF RECORDED BAIL HEARING
BEFORE THE HONORABLE STEVEN J. MCAULIFFE

Appearances:

For the Government: Nick Abramson, AUSA
U.S. Attorney's Office
53 Pleasant Street
Concord, NH 03301

For the Defendant: Jonathan Saxe, Esq.
Federal Defender Office
22 Bridge Street
Concord, NH 03301

Probation Officer: Sean Buckley

1 BEFORE THE COURT

2 THE CLERK: The Court has before it for
3 consideration a bail hearing in the matter of United
4 States of America versus Jonathon Irish, Criminal No.
5 13-cr-142-01-PB.

6 THE COURT: All right. Mr. Saxe, I was a
7 little confused. There was a stipulation to detention.
8 Now you're moving for bail?

9 MR. SAXE: Yes, because at the time he
10 stipulated to detention, your Honor, he was being held
11 on state charges in Rockingham County. Those charges
12 were dismissed. So now the only thing that's holding
13 him up was the stipulation of detention in this case.
14 So that's the deal.

15 THE COURT: All right. Whenever you're ready.
16 It's the government's burden. Go ahead, Mr. Abramson?

17 MR. ABRAMSON: Yes, your Honor, it is our
18 burden in this case. There is no presumption under
19 3142. So we carry the burden of showing by clear and
20 convincing evidence that he poses a danger to the
21 community and by preponderance that he's a risk of
22 flight.

23 While I think we meet the threshold in full
24 here, I'm going to focus on the risk to the community
25 because I think that is real and substantial in this

1 case.

2 I did file a lengthy memorandum in support of
3 detention so I won't belabor the point here, but I will
4 walk through some of the highlights for you.

5 THE COURT: I've read it.

6 MR. ABRAMSON: The first of which is that the
7 nature of these crimes are quite serious. The defendant
8 is charged primarily with engaging in the business of
9 dealing in firearms without the requisite federal
10 firearms license, but it wasn't just any firearms. It
11 was assault rifles, which, as we all know, are
12 notoriously dangerous weapons.

13 THE COURT: Why are they so notoriously more
14 dangerous than any other firearm? They look more
15 dangerous, but it's just a firearm, isn't it?

16 MR. ABRAMSON: Well, your Honor, I would
17 submit that they are more dangerous.

18 THE COURT: In what sense?

19 MR. ABRAMSON: I think that they are typically
20 considered by people in the field to be more of a
21 military grade weapon that is inherently more dangerous.

22 THE COURT: Kills you just as dead as another
23 firearm; right?

24 MR. ABRAMSON: That's true, and that's not
25 something I'm going to focus on. But I do think they're

1 quite dangerous, and he was placing them in the stream
2 of commerce with no paperwork, no way to track them, no
3 records.

4 As part of that scheme, he was using his
5 girlfriend to go into gun stores and purchase the
6 assault rifle or receivers so that no background check
7 was conducted on him. There would be no delay, and he
8 could quickly obtain the firearms to build and sell.

9 And I would note that as you can see in
10 Section 3142(g)(1), Congress has called particular
11 attention in making this calculation to crimes involving
12 firearms.

13 THE COURT: They were sort of talking about
14 use.

15 MR. ABRAMSON: I think that certainly
16 heightens it, but they do identify crimes involving
17 firearms, explosives, or destructive devices as the type
18 or kind that we should be paying particular attention to
19 in these calculations.

20 As far as the detention determination as a
21 whole, we obviously take a more holistic approach. So
22 we then -- in the event that the Court looks at these
23 types of crimes as, for example, not the typical armed
24 bank robbery, hands-on child exploitation case, the type
25 of case that might clearly warrant detention, we do look

1 at a number of other factors under 3142, and I think
2 that each of those factors when you walk through them
3 militates strongly in favor of detention in this case.
4 First of all, with respect to the weight of the
5 evidence, as I said, I've walked through that in the
6 memorandum. I won't walk through that at length here.
7 More concerning is the defendant's criminal history and
8 the nature of the danger that he poses to the public.

9 With regard to his criminal history he's I
10 believe 27 years of age. His criminal history is
11 already two pages long. I understand that none of those
12 are technically felony offenses, but it is a quite
13 extensive criminal history, and I can tell you that
14 there's a banker's box full of police reports from
15 perhaps a dozen New Hampshire police departments sitting
16 in my office that are not reflected in his criminal
17 history. He does have extensive experience with law
18 enforcement at a very young age.

19 He also, as we've seen in a lot of these
20 police reports which is not reflected in this criminal
21 history, does have a personal history of violent and
22 aggressive behavior and of use of firearms in support of
23 that violence and aggressive behavior, and I've listed a
24 few of those in the government's memorandum.

25 For example, in August of 2012 a police report

1 from Brentwood, New Hampshire, details an incident in
2 which Mr. Irish confronted two teenage girls in his
3 neighborhood who were playing a prank on a friend and
4 brandished a firearm during that confrontation.

5 On February 23rd, 2013, there's a recorded
6 conversation in which the defendant mentions that he was
7 glad he didn't bring his daughter to a firearms rally in
8 front of the Concord State House because he was afraid
9 there might be a fire fight with law enforcement.

10 In September of 2013, even more recently, he
11 brandished a firearm yet again, according to a police
12 report, when a neighbor was driving through his
13 neighborhood and he confronted that neighbor claiming
14 that he was driving too fast.

15 In late October of 2013, the defendant asked
16 the local police for permission to fire blank rounds at
17 children to scare them at Halloween.

18 These are just a few examples of his history
19 of behavior where he uses firearms. He's essentially a
20 bully with an affinity for firearms, and I think that
21 poses a real and substantial threat to the community.

22 More specifically in this case, we have
23 specific threats, recorded threats, that the defendant
24 has made with regard to multiple potential witnesses in
25 this case. We've obtained recordings of his jail calls.

1 In one of his jail calls he refers to his girlfriend,
2 who I will refer to here as ST, and he states that if
3 anything happens to his daughter, he will, quote, put
4 her in a hole.

5 He refers to another friend in a separate call
6 and states essentially that if that friend cooperates
7 and testifies, he will, quote -- and I have to say the
8 word is a little unclear. It's either slit or cut his
9 throat. And later on in the call says that he will bury
10 him.

11 And, finally, there is a third potential
12 witness in this case, the lead case agent, Philip
13 Christiana of the FBI, whom the defendant has given
14 particular attention and blames for his current legal
15 troubles, and in multiple calls he boasts about having
16 Googled Agent Christiana's address and knowing where he
17 lives, and he states that he knows where Agent
18 Christiana's family goes to church.

19 So I would argue that even beyond the general
20 threats and the specific threats, putting a finer point
21 on that is the fact that we have received information
22 that the defendant reached out to a former associate to
23 find out about the possibility of obtaining a firearm if
24 he was released pending trial.

25 So I think we need to take all of those into

1 account, his history of violent and aggressive behavior
2 with firearms, his specific threats in this case, his
3 criminal history, and his possible attempt to obtain a
4 firearm if he's released make a very strong case for
5 detention here.

6 The final point I will make, which I know we
7 are looking at primarily the danger to the community and
8 the risk of flight, but I think there is a very real
9 risk of tampering in this case. We do have evidence
10 that -- I should step back for a moment. As Attorney
11 Saxe just explained to you, when he first -- when the
12 defendant first stipulated to detention, there was an
13 ongoing state case involving the defendant and his
14 girlfriend. During that time period his girlfriend was
15 cooperating with the government. She was providing
16 information to the government about the defendant's
17 criminal activities. In some of the defendant's
18 recorded jail calls, he reaches out to a friend and asks
19 that friend to pass a message on to the girlfriend
20 stating essentially either we both go down for this or
21 she's going down for this.

22 Very shortly thereafter, the girlfriend
23 decides to stop cooperating with the government,
24 reconciles with the defendant, and we've seen
25 communications from the girlfriend to other potential

1 witnesses in this case stating that she's going to do
2 everything she can to help him get off of his federal
3 charges.

4 So I think given the threats he's made, the
5 actions that he's taken with respect to his girlfriend,
6 there is a very real risk of witness tampering in this
7 case if he's released, and given that trial is only a
8 month away, that is something that concerns me.

9 So that's the detention issue, and I don't
10 think we should get to the second issue here because I
11 think he should be detained. But the second issue is if
12 you do release this defendant, who is the appropriate
13 custodian? Who is the appropriate person to whom he
14 should be released? And the defense has suggested that
15 an individual named Tony Costello would be the person
16 with whom the defendant would reside if he was released
17 pending trial.

18 I have several concerns about that. The first
19 which was -- which I was alerted to by Mr. Buckley just
20 before this hearing is that in a conversation last night
21 Mr. Costello represented that he does not have a
22 criminal history, and we are still in the process of
23 developing this, but it seems like there is some
24 potential that he does in fact have a criminal history.

25 My second concern is that Mr. Costello was the

1 individual through whom the defendant reached out to his
2 girlfriend while he was in prison to essentially try to
3 get her to change her position. So we are talking about
4 taking this defendant with all his baggage and his
5 background and placing him with an individual who has
6 previously -- and he's admitted this to an FBI agent --
7 passed along messages from the defendant to witnesses.

8 So for all of those reasons I would strongly
9 recommend that we detain this defendant pending trial.

10 THE COURT: Thank you, Mr. Abramson. Mr.
11 Saxe?

12 MR. SAXE: Thank you, your Honor. With
13 respect to Mr. Costello, the reason why he needs
14 someplace to stay is that he survives on SSI,
15 disabilities that he has, physical and mental
16 disability, and that's cut off while he's in jail. So
17 he needs to stay at a place for a period of time until
18 his payments get back on and then he can get his own
19 place.

20 So I contacted Mr. Costello. Mr. Costello's
21 name was given to me and I contacted him and I was under
22 the impression that he had no criminal record. If he
23 does have one, I would agree that's not an appropriate
24 place. We could find another place. So I think that
25 issue can be addressed separately from the issue of

1 whether my client's a flight risk or a danger to the
2 community. So if you make a finding that he's not a
3 flight risk or a danger to the community, we could find
4 another place. So I don't think that that's an issue.

5 As far as his -- he has no ties anywhere else
6 as I put in my motion. I contacted his mother, who
7 couldn't be here today because she's watching the
8 couple's child. The child's mother, Stephanie Taylor,
9 is here today, and she was referenced in part of the
10 government's argument. And so his whole family lives
11 here, his grandmother, his grandfather, his mother, his
12 sisters, everything is here, his child is here. And he
13 has Social Security Disability. He can't run. He
14 doesn't have any money to run, and he doesn't have
15 anywhere to run to. So I don't think that's the issue.
16 I think -- I don't accept this argument, but obviously
17 the better argument from the government's perspective is
18 whether he's a danger to the community because the case
19 involved guns. That's potentially an issue.

20 So I would call the Court's attention to page
21 eight of the government's objection to my motion and it
22 was referred to by the government in their presentation.
23 It says: Jonathon has made -- this is an email -- or
24 it's not an email. It's a chat from Stephanie Taylor,
25 who's in the courtroom right now, using a different

1 email address, and she says: And we agree that this is
2 what she said. Jonathon has me using his Facebook to
3 get in touch with people as I had to delete my account
4 for many reasons. His message to you is do not trust
5 his sister Leslie and he -- it's probably mistyped --
6 and be nice cause more than likely everything that she
7 may have to say to your or anybody is not true. I'm
8 working with those that I can get him off of his state
9 charges and his federal charges.

10 Now, first of all, I don't think that that's
11 really evidence of anybody obstructing justice in any
12 way.

13 More importantly, I would call your attention
14 to Exhibit B because that implies that he's going to use
15 this conversation -- that this conversation is evidence
16 of him trying to use Stephanie Taylor to get him off his
17 federal charges; right? But if you read the rest of
18 that email -- or the chat, it says -- and I will read
19 the whole thing. I'm working with those that I can to
20 get him off of the state charge, and his federal
21 charges, well, he says he's just going to take a plea
22 hoping that he can get out in six or eighteen months.

23 That doesn't sound like that's evidence that
24 he's trying to use her to tamper with witnesses in this
25 case. He's telling her I'm going to plead guilty. So I

1 suggest that that's not evidence of witness tampering at
2 all, and it is a little bit misleading.

3 THE COURT: It's probably hearsay, but is it
4 evidence of knowledge of guilt?

5 MR. SAXE: He's saying -- my point is this.
6 My understanding of the reason why that was offered by
7 the government is to show --

8 THE COURT: Whatever it was offered by the
9 government for, what's its character and nature? You're
10 citing language that one person attributes to your
11 client that suggests knowledge of guilt or acceptance of
12 guilt.

13 MR. SAXE: Well, they are offering that to
14 show that he's trying to tamper with a witness in this
15 case, and my position is --

16 THE COURT: He wasn't trying to tamper with a
17 witness. He's going to try to plead guilty.

18 MR. SAXE: Right. So that's not evidence he's
19 tampering with a witness. That was one of the main
20 arguments.

21 THE COURT: Let's accept that. Is it evidence
22 of knowledge of guilt?

23 MR. SAXE: You could argue that. But it's
24 definitely not evidence of witness tampering. I mean he
25 could have confessed to the police, and that's not a

1 reason why he shouldn't be out on bail I would suggest.

2 THE COURT: Well, it might be because it could
3 show the evidence is overwhelming -- of his guilt is
4 overwhelming.

5 MR. SAXE: It could go into the reasoning. My
6 point is I think the government is concerned about
7 witness tampering here, and I don't really think that
8 that's an issue and I think that that was not evidence
9 of witness tampering at all.

10 I would also suggest that my client has made
11 numerous completely wildly inaccurate claims about a lot
12 of things, okay, and if you look through the reports by
13 the FBI agents that investigated this case, their
14 reports are replete with examples of that, and I would
15 take -- call the Court's attention to Exhibit C,
16 Defendant's Exhibit C. In the second paragraph,
17 WatchDogIrishIII -- that's my client's moniker. At the
18 end of the second paragraph he says: Then I went to the
19 sandbox. These kids don't get it.

20 That means he went to Iraq.

21 If you look at the fourth paragraph down,
22 it's, again, another statement by WatchDogIrishIII,
23 which is my client. He's telling this person on the
24 line: When I worked with the contractors and got home,
25 it wasn't much for me. Combat experience, shooting

1 people and blowing shit up, not much of a call for that
2 here back home. So I build AR-15s. It pays the bills
3 usually.

4 Okay. So that is an utterly fanciful
5 statement. He never went to Iraq. He was never in the
6 military. He never built AR-15s for people in Iraq.
7 And this discovery contains tons of statements like
8 that.

9 Also on the issue of guilt, your Honor, I
10 would call the Court's attention to Exhibit D, which is
11 again received in discovery. The undercover in this
12 case is an individual who runs this place called Charlie
13 Company. He is a key player in this case. There's
14 probably 50 CDs worth of recordings. Many of them are
15 in his store recording not just my client, but they have
16 recordings of militia meetings and meetings of people
17 that are in groups that don't appreciate, most
18 specifically, the Obama administration or the federal
19 government.

20 So if you look at Exhibit D, what this is,
21 your Honor, is my client is in a phone conversation with
22 this guy Milton who's -- he's not undercover. He's the
23 CI and he's the guy that runs -- the federally-licensed
24 firearms dealer. He has a license. And the history
25 there is that my client worked for Milton at his

1 Army/Navy store. He was there when Milton got his
2 license as a firearms dealer. They're very close, and
3 he's kind of a like a father figure to my client. At
4 least he was before this case happened.

5 So this is the conversation. They're charging
6 my client with running a firearm business without a
7 license. And what this conversation is -- and I will
8 bring you through it afterward, but essentially this is
9 a situation where my client is contacting Milton because
10 he wants to sell -- Milton wanted his guns. And Milton
11 is a licensed firearms dealer.

12 So he brings the gun and he says I want to
13 sell this to you for \$900. And at this point in time
14 Milton is working for the FBI, and Milton says, oh, no,
15 I don't have any money. I can't buy the firearm. You
16 need to sell it to Mike.

17 Well, Mike is the FBI. So my client says,
18 well, I want \$900 for it. It cost him \$976 to build.
19 And he's going to sell to Milton for \$900. Milton says,
20 no, you need to sell it to Mike. And then my client
21 says, I will sell it to you for \$700. And then Milton
22 says, I don't have \$700. You need to sell it to Mike.
23 And then Milton calls Mike.

24 So that sounds somewhat like entrapment to me.
25 I mean, that's like the federally-licensed dealer -- my

1 client trying to sell a firearm in a legal way to a
2 licensed dealer and the licensed dealer pushing him off
3 to sell it illegally to the federal agent who's acting
4 undercover.

5 Now, I will just walk you through this. If
6 you look at page three, CHS, that's the informant. JI,
7 that's my client. And in the middle of the page my
8 client says: You can sell -- you can register this as a
9 sure valid weapon and sell it for three grand, but I'm
10 not doing that. And then my client says: Because I
11 don't have my Class 3. In other words, because it would
12 be illegal.

13 Then if you skip forward to page five, CHS
14 four lines down, says: Boy, you really put some coinage
15 in this. Meaning, this must have cost you some money.
16 My client says: Actually not much, more than what I'm
17 selling it to you for. Like I said, I have a total of
18 967 into it. And then Milton says: And you want to
19 sell it to me for how much? And my client says: Nine.
20 It's losing money.

21 That's not really in the business of selling
22 firearms.

23 And then the undercover -- Milton says
24 essentially: I don't have the money right now. There's
25 the little sentence there where he says I need to put my

1 two grand into an escrow account.

2 Then if you skip down four, five paragraphs up
3 from the bottom of the page: I'm going to be tied up
4 with money for at least a couple weeks, but if you want
5 I can reach out to Mike. It's up to you. And so my
6 client says, yeah. And then Milton says, okay, I will
7 give him a call. He will give Mike a call. And my
8 client says: Okay, a sale is a sale. And then Milton
9 says: It's up to you, brother. And then Milton says:
10 I will reach out to him, meaning Mike.

11 So then he calls Mike. But before that my
12 client says: I figured out where it's going to go
13 anyway, or from you I will take seven.

14 So he's going to lose \$200. He's offering to
15 sell it to the licensed dealer for 200 bucks less than
16 he made it for, 260 bucks less than he made it for. And
17 Milton says, no, I'm not going to take it. You've got
18 to sell it to Mike.

19 Then he makes a phone call, at the bottom of
20 the page, to Mike, and he says, hey, Mike, -- Mike, the
21 undercover agent -- it's Milt over at Charlie Company.
22 Want to do me a favor and call me as soon as you get
23 this, okay? I want to talk business. I want to talk
24 business.

25 So as far as running an unlicensed firearm

1 business, that's not what this sounds like. And there's
2 more of this. I don't have it all, but there's more of
3 this, okay? So as far as the charge of running an
4 unlicensed firearm business, there's a problem with
5 their case there. There's a big problem with their case
6 on that. And everything goes through Milton. Every
7 transaction occurred in Milton's store, and I'm
8 99 percent sure while Milton was in the store every time
9 and I think in most, if not every one, Milton's in the
10 room while the transaction is going on. So I would
11 suggest to you that there's a very strong entrapment
12 defense in this case which goes to the strength of the
13 government's case.

14 And then there's a lot of recordings where my
15 client says things, like I'm doing this for -- look
16 here, he says that. He says yeah. At one point in one
17 of the recordings he says I made 30 of these, 40 of
18 these. Ridiculous. He never made 30 or 40 of these.
19 He's a disabled person because he has one eye and mental
20 disabilities, living this close to the poverty level,
21 and he's willing to sell a gun for less than he made it
22 for to his father figure Milton, the guy that runs the
23 store.

24 Just some other things that he said, and these
25 come from Agent Christiana's reports. Agent Christiana

1 interviewed a lot of people. He interviews someone
2 named Crystal Marie Rogers. Irish did tell Rogers on
3 Facebook he was building guns and that was how he,
4 Irish, made his living. Irish told Rogers he's spent
5 time in Iraq during the Iraq War and he was building
6 guns while in Iraq.

7 Total fabrication.

8 They then -- Mr. Christiana interviewed James
9 Brown. In part of his report he says: Irish told Brown
10 he worked for Blackwater overseas and suffers from PTSD.
11 Brown does not believe Irish. A ridiculous story, it's
12 just not true.

13 He is is a gun nut. He wants people to think
14 he's a military guy. He's got mental illness. He wants
15 people to think he's this huge figure in the American
16 militia movement, which is nonsense.

17 And then Mr. Christiana interviewed a Paige
18 Watterson. Irish told Waterson he was honorably
19 discharged from the military. He had many guns because
20 of his CIA job. Irish told Waterson he has guns to
21 protect Cheyenne from being taken by the state.
22 That's -- Cheyenne, that's his daughter.

23 Mr. Christiana interviewed a Joseph Sutkas
24 (ph). Irish told Sutkas he and his friends have a line
25 on an H1 Hummer that's fully armored. On his Social

1 Security Disability I guess. Irish said to Sutkas he
2 was -- on numerous occasions he worked for Uncle Sam and
3 he served overseas in the sandbox. He has told people
4 that I'm an armorer for the police. And on and on and
5 on, these crazy, crazy statements that you can't take
6 out of context. They want you to believe the part where
7 he says I'm making my living selling AK-47s, but they
8 want you to take out the part where he says I did it in
9 Iraq, I learned how to do this in Iraq.

10 So I think if a jury hears all the evidence
11 and is aware of what he's like and the things that he
12 says, that their case is not necessarily as strong as
13 the government says it is. And also I think that goes
14 to whether or not he's a risk.

15 Now, the government has in their pleading
16 talked about a number of events that occurred which
17 sound disturbing. It's on page six, okay? He made a
18 YouTube video in which he stated that any perceived
19 threats to his family will be met with deadly force.

20 Well, I mean, given the nature of all the
21 things that he says and the fact that he doesn't have
22 any record for ever using force or deadly force, I don't
23 think he has any assault convictions on his record.
24 And, by the way, his record may be several pages long,
25 but a lot of those things didn't even result in

1 convictions. The ones that did were either violations
2 or misdemeanors and he never went to jail.

3 Regarding the Brentwood Police Department, on
4 August 12th reports filed by the Brentwood, New
5 Hampshire, Police Department detailed an incident in
6 which the defendant confronted with firearms two teenage
7 girls who parked in the neighborhood.

8 What happened is he sees a car -- there had
9 been a lot of break-ins with burglaries. He sees a car
10 parked out in the middle of the road with no lights on
11 and nobody in it. So because he's a gun nut, he goes
12 out there with a gun. And there's no one in the car.
13 And so he calls the police. He calls the police, not
14 the girls, and says there's something going on here.
15 The girls come. He has a gun. I'm sure they were
16 scared to death because there was a guy there with a
17 gun.

18 He was never charged with anything on that.
19 There was no charges at all. He was never charged or
20 convicted of anything regarding that incident.

21 Then the firearms rally, I don't know if you
22 remember that, your Honor, but I'm a liberal, you know,
23 so I consider people like my client to be gun nuts. And
24 at that rally there was a ton of them and there was a
25 lot of them that were armed. If you look at the

1 pictures, my guy's -- my client's standing there with a
2 rifle, a gun, and there's a guy next to him with a gun,
3 and there was a whole bunch of those people there. But
4 that's not illegal. You can have a gun inside the
5 legislature. So that's not illegal for him to do.

6 Again, there's another incident where someone
7 was driving -- this is on page seven of their report.
8 An individual was driving through and there was a
9 confrontation with my client. My client called the
10 police. There were no charges. He wasn't charged with
11 anything.

12 And as far as my client asking the police for
13 permission to fire blank rounds at children, there was a
14 discussion about him requesting permission to fire
15 blanks as part of a scary thing, but I don't think he
16 ever requested that he fire blanks at children. Plus he
17 called the police.

18 All right. So I would suggest, your Honor,
19 that my client's dangerousness is being somewhat
20 overblown by the government here. I understand that
21 there's a concern because it's a firearm charge, okay,
22 but there's also a concern because he is a Second
23 Amendment, right-wing libertarian guy who stands up for
24 his rights, all right? He doesn't have much of a
25 criminal record, never -- I think he might have been in

1 jail for a very short period of time for something, but
2 I'm not even sure about that. These are all minor
3 violations, either misdemeanors or just violations or
4 they were dismissed. He's definitely not a flight risk
5 because there's nowhere he could go.

6 There would be a requirement that he not have
7 a firearm. I realize today we don't have a residence
8 for him, but I think if you make a finding that he
9 should be released, I could find a place. I thought
10 this one was okay, but I had some other places where
11 they want him to stay. A lot of his friends have a ton
12 of firearms. So I had found a good place for him to
13 stay, but the guy had 125 firearms and he said I'm not
14 going to get rid of. So I would assume he had no
15 record.

16 THE COURT: What about these implicit threats
17 to the FBI agent and his family?

18 MR. SAXE: Oh, thank you very much. It just
19 so happened when my client -- at least this was my
20 information. That the agent lived about a mile from his
21 house and went to church at the end of my client's
22 street. So that's how my client knew where he lived.
23 He lives right next to him. So it's not I don't think
24 an issue of him finding out that my client lived
25 somewhere and casing him out and claiming to do

1 something. I don't think that's the case. If I'm wrong
2 I'm sure I will be corrected, but my client lived very
3 close to him. He knew where he lived and knew where he
4 went to church because the church is right there.

5 THE COURT: Yes. Source of knowledge isn't
6 the issue. It's the intent or the comment is the issue.

7 MR. SAXE: I'm sorry, your Honor?

8 THE COURT: It's not the source of the
9 knowledge that's at issue. It's the intent of the
10 comment. Why does one say I know where his children go
11 to church? Why would you say that if you're not
12 threatening?

13 MR. SAXE: I think, your Honor, that -- well,
14 I know that my client was in regular contact with Mr.
15 Christiana all the time, not thinking there was going to
16 be --

17 THE COURT: I'm sure they talked every day,
18 but still the question remains.

19 MR. SAXE: I don't think he's a threat to Mr.
20 Christiana.

21 THE COURT: I'm sure you don't, but the
22 question remains, what's the intent of the comment?

23 MR. SAXE: Which comment was that?

24 THE COURT: The effect of I know where your
25 family and children go to church. I may not understand.

1 MR. SAXE: He's making comments about
2 everything all over the place. I think that you need --
3 you can't really evaluate whether he should be released
4 without evaluating the fact that he just makes all kind
5 of wild claims about guns and military and Blackwater
6 ops. Oh, one of the other claims was I was in the
7 border patrol down in Texas. Just nonsense, not true,
8 and I think they know that.

9 So I will just ask that you consider that, and
10 I don't think that given all these facts that they meet
11 their burden.

12 THE COURT: Thanks, Mr. Saxe. Mr. Abramson?

13 MR. ABRAMSON: Your Honor, I just have two
14 quick points. The first is -- I'm not going to get into
15 the weight of the evidence. I understand the entrapment
16 argument. I think that's an argument that's better
17 suited for trial. There's multiple other charges here
18 where the evidence is overwhelming involving guns.

19 With respect to these fanciful stories, one of
20 the charges here is that the defendant lied to a federal
21 agent about the whereabouts of his firearms during the
22 course of this investigation. We are talking about
23 releasing a defendant who would presumably be reporting
24 to probation and giving accurate information about his
25 whereabouts about whether he had firearms. I think his

1 nature of lying, if we accept that as true, is
2 problematic in that sense.

3 And finally a point that I meant to make in
4 the beginning, which is also very concerning, is the
5 defendant's ability to build firearms. I won't call him
6 an expert, but he knows how to build firearms. He knows
7 how to build assault rifles from component parts. So
8 even in the event that we are able to prevent him from
9 purchasing a firearm or acquiring a firearm from a
10 friend, if he's able to find the basic parts, he could
11 easily build a firearm wherever he's residing.

12 So I will rest on those points.

13 THE COURT: All right. Thank you.

14 MR. SAXE: Briefly, your Honor. The only
15 place he can buy the parts to build a firearm is from a
16 firearms dealer. So it's not like he has parts lying
17 around at home. It's just like buying a gun when he
18 buys the parts to build a gun. It's just like buying a
19 gun. As a matter of fact, that's one of the charges,
20 that he bought the parts.

21 THE COURT: Thank you, Mr. Saxe, I appreciate
22 it. I've considered the nature of the evidence, the
23 weight of the evidence, the defendant's criminal
24 history, likelihood of recidivism as indicated by that
25 criminal history, the fact that the defendant definitely

1 poses in my judgment a danger to the community and
2 persons within the community, and given those findings I
3 find that there's no condition or combination of
4 conditions that will reasonably assure the safety of the
5 community and persons within the community, and
6 therefore the defendant shall be detained pending trial.

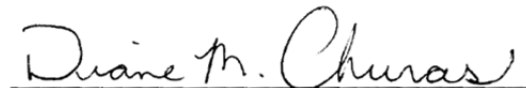
7 And I will issue a detention order shortly.
8 Court's adjourned.

9 (Adjourned at 11:50 a.m.)
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C E R T I F I C A T E

I, Diane M. Churas, do hereby certify that the foregoing transcript is a true and accurate transcription of the recorded proceedings, to the best ability and belief.

Submitted: 11/21/14



DIANE M. CHURAS, LCR, RPR, CRR
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